

United States Senate

WASHINGTON, DC 20510

December 15, 2017

The Honorable John Carter
Chairman
House Committee on Appropriations
Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member
House Committee on Appropriations
Subcommittee on Homeland Security

The Honorable John Boozman
Chairman
Senate Committee on Appropriations
Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member
Senate Committee on Appropriations
Subcommittee on Homeland Security

Dear Chairman Carter, Ranking Member Roybal-Allard, Chairman Boozman, and Ranking Member Tester:

As your Subcommittees consider FY18 Department of Homeland Security (DHS) appropriations, we urge you to include report language to mandate that all Immigration and Customs Enforcement (ICE) detention system facilities, including contract facilities and local and county jails operating under Inter-Governmental Service Agreements, meet ICE 2011 Performance-Based National Detention Standards (PBNDS) requirements as last revised in 2016.¹

Mandating that all ICE detention system facilities meet updated PBNDS requirements will help mitigate troubling current limits on oversight and accountability in federal immigration detention practices. Implementing these standards is especially important given the dramatic increase in arrests by ICE and efforts under this administration to expand the incarceration of immigrants. These trends, combined with plans by DHS to use criminal detention standards for a civil detention system, require immediate attention by Congress.²

ICE PBNDS – overhauled with diverse stakeholder input in 2011, updated in 2013 and again last year– reflect a critical step to improve health and safety within immigrant detention facilities. ICE has failed, however, to conduct reasonable inspections of and broadly apply PBNDS requirements to all of the more than two hundred facilities in its detention system. In fact, the most recent data made publicly available by ICE – which was only released in the course of Freedom of Information Act (FOIA) litigation – reveals that 151 of the 201 detention facilities

¹ U.S. Immigration and Customs Enforcement, *2011 Operations Manual ICE Performance-Based National Detention Standards*, and *Summary of Revisions to ICE Performance-Based National Detention Standards*, Dec. 2016, available at <https://www.ice.gov/detention-standards/2011>

² John Burnett, *Big Money as Private Immigrant Jails Boom*, NPR, Nov. 21, 2017, available at <https://www.npr.org/2017/11/21/565318778/big-money-as-private-immigrant-jails-boom>; Caitlin Dickerson, *Trump Plan Would Curtail Protections for Detained Immigrants*, THE NEW YORK TIMES, Apr. 13, 2017, available at <https://www.nytimes.com/2017/04/13/us/detained-immigrants-may-face-harsher-conditions-under-trump.html>

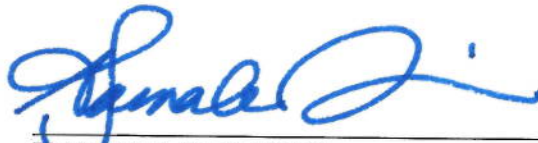
currently in use by ICE are inspected using woefully out of date 2000 National Detention Standards.³

Poor conditions and inhumane treatment of immigrants within ICE detention facilities continue to fuel tragic and unjust consequences. Immigrants suffer mentally and physically – some have even lost their lives – as a result of dangerous, cruel, and unsanitary conditions and medical negligence within some facilities.⁴ A majority of immigrants in ICE detention facilities additionally face immense barriers to access counsel to assist them in their complex immigration legal proceedings, which violates principles of due process.⁵

Mandating that all facilities within the ICE detention system meet the most current PBNDS requirements as a condition of DHS appropriations would create a powerful framework for oversight and accountability to drive necessary reform of an intolerable federal immigration detention status quo.

Thank you for your consideration of our request and for your considerable efforts on FY18 appropriations.

Sincerely,



KAMALA D. HARRIS
United States Senator



TAMMY DUCKWORTH
United States Senator

³ ICE released its detention facility matrix as of July 2017 to the Center for Constitutional Rights and Detention Watch Network in the course of FOIA litigation. The spreadsheet is maintained on the website of the National Immigrant Justice Center at <http://immigrantjustice.org/index.php/issues/transparencyandhumanrights>.

⁴ See, e.g., American Civil Liberties Union, Detention Watch Network, National Immigrant Justice Center, *Fatal Neglect: How ICE Ignores Deaths in Detention*, Feb. 2016, available at <https://www.immigrantjustice.org/research-items/report-fatal-neglect-how-ice-ignores-deaths-detention>; Human Rights Watch, *Systemic Indifference: Dangerous and Substandard Medical Care in U.S. Immigration Detention*, May 2017, available at <https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention>.

⁵ See Otis Taylor Jr., *Conditions worsen for some ICE detainees at Richmond jail*, THE SAN FRANCISCO CHRONICLE, Nov. 10, 2017, available at <http://www.sfchronicle.com/news/article/Conditions-worsen-for-some-ICE-detainees-at-12346066.php>; Miriam Valverde, *How do standards measure up at immigration detention centers? A special report*, POLITIFACT, Sept. 10, 2017, available at <http://www.politifact.com/truth-o-meter/article/2017/sep/06/immigration-detention-expansion/>; Office of the Inspector General, U.S. Department of Homeland Security, *Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California*, Mar. 6, 2017, available at <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>; Homeland Security Advisory Council, U.S. Department of Homeland Security, *Report of the Subcommittee on Privatized Immigration Detention Facilities*, Dec. 1, 2016, available at <http://www.trbas.com/media/media/acrobat/2016-12/70003382918880-01141658.pdf>; U.S. Government Accountability Office, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Detainee Medical Care*, Feb. 2016, available at <http://www.gao.gov/assets/680/675484.pdf>



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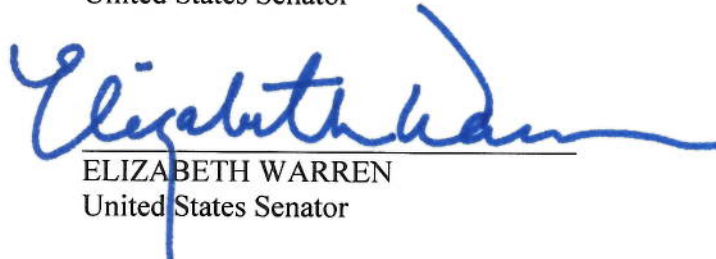
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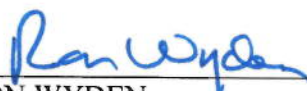
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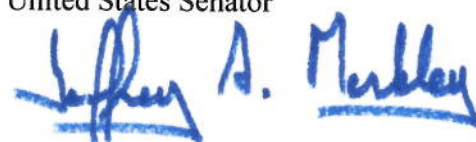
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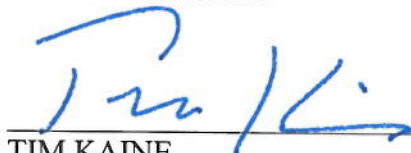
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